

****NOT FOR PRINTED PUBLICATION****

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
LUFKIN DIVISION**

UNITED STATES OF AMERICA

v.

CEDRICK FOWLER

§
§
§
§
§
§
§
§

CASE NUMBER 9:12-CR-27-2-RC

**ORDER ACCEPTING REPORT AND RECOMMENDATION OF UNITED STATES
MAGISTRATE JUDGE ON DEFENDANT'S MOTION FOR RELEASE**

The court referred Defendant's Motion for Release from Custody due to COVID-19 (Doc. No. 496) to United States Magistrate Judge Zack Hawthorn for consideration pursuant to applicable laws and orders of this court.

After review and consideration of Fowler's motion, Judge Hawthorn issued a Report and Recommendation on May 21, 2020, denying Fowler's motion because he failed to exhaust his administrative remedies, and did not meet the criteria for compassionate release. (Doc. No. 497.) Fowler received Judge Hawthorn's report and recommendation on June 1, 2020. (Doc. No. 499.) On June 15, 2020, Fowler filed a motion to extend his deadline to file objections, and Judge Hawthorn extended his deadline to July 9, 2020. (Doc. No. 500.) Fowler received the order granting him an extension to file objections on June 24, 2020. (Doc. No. 502.) On July 17, 2020, Fowler filed a "notice" with the court stating that he is still awaiting his BP-9 form to come back in order for his remedies to be exhausted. (Doc. No. 503.) To date, no other filings have been made.

The court conducted a *de novo* review pursuant to FED. R. CIV. P. 72(b)(3) and 28 U.S.C. § 636(b)(1)(C) of the pending motion, the record, and the applicable law. In Fowler's motion to extend his deadline and notice, he states that he is still awaiting BOP forms, his medical history includes seizures, and there are over 330 cases of COVID-19 at the facility. (Doc. No. 500, 503.) Taking these statements as true and considering them objections, and assuming Fowler properly exhausted his administrative remedies, he still does not meet the criteria for compassionate release. Therefore, the court finds Fowler's objections have no merit and Judge Hawthorn's findings are correct.

Accordingly, the court OVERRULES the Defendant's Objections (Doc. No. 500, 503), ACCEPTS Judge Hawthorn's Report and Recommendation (Doc. No. 497) and DENIES the Defendant's Motion for Compassionate Release due to COVID-19 (Doc. No. 496).

So ORDERED and SIGNED, Sep 11, 2020.

A handwritten signature in black ink, appearing to read "Ron Clark", written over a horizontal line.

Ron Clark
Senior Judge